

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Judiciary, to which was referred House Bill No. 1287, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 3-7-13-5 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) A person
5 described in section 4 of this chapter who is otherwise qualified to
6 register under this article is eligible to register when the person is no
7 longer:
8 (1) imprisoned; or
9 (2) otherwise subject to lawful detention.
10 (b) Notwithstanding IC 35-47-2, IC 35-47-2.5, or the restoration of
11 the right to vote under this section and except as provided in
12 subsections (c); (d); and (g) IC 35-47-4-7, a person who has been
13 convicted of a crime of domestic violence (as defined in
14 IC 35-41-1-6.3) may not possess a firearm upon the person's release
15 from imprisonment or lawful detention.
16 (c) Not earlier than five (5) years after the date of conviction; a
17 person who has been convicted of a crime of domestic violence (as
18 defined in IC 35-41-1-6.3) may petition the court for restoration of the
19 person's right to possess a firearm. In determining whether to restore
20 the person's right to possess a firearm, the court shall consider the

- 1 following factors:
- 2 (1) Whether the person has been subject to:
- 3 (A) a protective order;
- 4 (B) a no contact order;
- 5 (C) a workplace violence restraining order; or
- 6 (D) any other court order that prohibits the person from
- 7 possessing a firearm.
- 8 (2) Whether the person has successfully completed a substance
- 9 abuse program, if applicable.
- 10 (3) Whether the person has successfully completed a parenting
- 11 class, if applicable.
- 12 (4) Whether the person still presents a threat to the victim of the
- 13 crime.
- 14 (5) Whether there is any other reason why the person should not
- 15 possess a firearm, including whether the person failed to complete
- 16 a specified condition under subsection (d) or whether the person
- 17 has committed a subsequent offense.
- 18 (d) The court may condition the restoration of a person's right to
- 19 possess a firearm upon the person's completion of specified conditions.
- 20 (e) If the court denies a petition for restoration of the right to possess
- 21 a firearm, the person may not file a second or subsequent petition until
- 22 one (1) year has elapsed.
- 23 (f) A person has not been convicted of a crime of domestic violence
- 24 for purposes of subsection (c) if the conviction has been expunged or
- 25 if the person has been pardoned.
- 26 (g) The right to possess a firearm shall be restored to a person
- 27 whose conviction is reversed on appeal or on post-conviction review at
- 28 the earlier of the following:
- 29 (1) At the time the prosecuting attorney states on the record that
- 30 the charges that gave rise to the conviction will not be refilled;
- 31 (2) Ninety (90) days after the final disposition of the appeal or the
- 32 post-conviction proceeding."
- 33 Page 9, delete lines 22 through 42.
- 34 Page 10, delete lines 1 through 29.
- 35 Page 14, between lines 29 and 30, begin a new paragraph and insert:
- 36 "SECTION 24. IC 33-35-5-5 IS AMENDED TO READ AS
- 37 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. All issues of fact
- 38 pending in city courts shall be tried by the judge, unless either party

demands a jury trial. The jury must consist of six (6) qualified ~~voters~~
residents of the city, to be summoned by the bailiff by venire issued by
the judge. **City residents shall be selected for jury service according**
to the procedures set out in IC 33-28-5."

Page 19, line 16, delete "IC 33-28-5-18" and insert "**IC 35-47-4-7**".

Page 19, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 33. IC 35-47-1-7, AS AMENDED BY P.L.49-2005,
SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2007]: Sec. 7. "Proper person" means a person who:

(1) does not have a conviction for resisting law enforcement
under IC 35-44-3-3 within five (5) years before the person applies
for a license or permit under this chapter;

(2) does not have a conviction for a crime for which the person
could have been sentenced for more than one (1) year;

(3) does not have a conviction for a crime of domestic violence
(as defined in IC 35-41-1-6.3), unless a court has restored the
person's right to possess a firearm under ~~IC 3-7-13-5~~;
IC 35-47-4-7;

(4) is not prohibited by a court order from possessing a handgun;

(5) does not have a record of being an alcohol or drug abuser as
defined in this chapter;

(6) does not have documented evidence which would give rise to
a reasonable belief that the person has a propensity for violent or
emotionally unstable conduct;

(7) does not make a false statement of material fact on the
person's application;

(8) does not have a conviction for any crime involving an inability
to safely handle a handgun;

(9) does not have a conviction for violation of the provisions of
this article within five (5) years of the person's application; or

(10) does not have an adjudication as a delinquent child for an act
that would be a felony if committed by an adult, if the person
applying for a license or permit under this chapter is less than
twenty-three (23) years of age."

Page 19, line 38, strike "IC 3-7-13-5 or".

Page 19, line 38, delete "IC 33-28-5-18," and insert "**IC 35-47-4-7**".

Page 20, line 7, strike "IC 3-7-13-5".

Page 20, line 8, strike "or".

Page 20, line 8, delete "IC 33-28-5-18" and insert "**IC 35-47-4-7**".

Page 20, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 36. IC 35-47-4-7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 7. (a) Notwithstanding IC 35-47-2, IC 35-47-2.5, the restoration of the right to serve on a jury under IC 33-28-5-18, or the restoration of the right to vote under IC 3-7-13-5, and except as provided in subsections (b), (c), and (f), a person who has been convicted of a crime of domestic violence may not possess a firearm after the person's release from imprisonment or lawful detention.**

(b) Not earlier than five (5) years after the date of conviction, a person who has been convicted of a crime of domestic violence may petition the court for restoration of the person's right to possess a firearm. In determining whether to restore the person's right to possess a firearm, the court shall consider the following factors:

(1) Whether the person has been subject to:

(A) a protective order;

(B) a no contact order;

(C) a workplace violence restraining order; or

(D) any other court order that prohibits the person from possessing a firearm.

(2) Whether the person has successfully completed a substance abuse program, if applicable.

(3) Whether the person has successfully completed a parenting class, if applicable.

(4) Whether the person still presents a threat to the victim of the crime.

(5) Whether there is any other reason why the person should not possess a firearm, including whether the person failed to satisfy a specified condition under subsection (c) or whether the person has committed a subsequent offense.

(c) The court may condition the restoration of a person's right to possess a firearm upon the person's satisfaction of specified conditions.

(d) If the court denies a petition for restoration of the right to possess a firearm, the person may not file a second or subsequent petition until one (1) year has elapsed after the filing of the most recent petition.

1 (e) A person has not been convicted of a crime of domestic
2 violence for purposes of subsection (a) if the conviction has been
3 expunged or if the person has been pardoned.

4 (f) The right to possess a firearm shall be restored to a person
5 whose conviction is reversed on appeal or on postconviction review
6 at the earlier of the following:

7 (1) At the time the prosecuting attorney states on the record
8 that the charges that gave rise to the conviction will not be
9 refiled.

10 (2) Ninety (90) days after the final disposition of the appeal or
11 the postconviction proceeding."

12 Renumber all SECTIONS consecutively.

(Reference is to HB 1287 as reprinted February 20, 2007.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

Bray

Chairperson